

Non-Executive Report of the: General Purposes Committee 25 June 2019	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance	Classification: Unrestricted
Council Governance Arrangements	

Originating Officer(s)	Mark Norman – Legal Adviser & Deputy Monitoring Officer Holly Bell – Lawyer
Wards affected	All Wards

Summary

This report informs Members of the statutory position relating to the Council's current governance arrangements.

Recommendation:

- (1) That the General Purposes Committee note and consider the content of this report.

1. REASONS FOR THE DECISIONS

- 1.1 This is a noting report for Councillors providing general information on the current position of the Council governance arrangements and the various model arrangements.
- 1.2 It is timely due to the approaching the end of the current ten-year moratorium on any change of the governance arrangements following the adoption of the Mayoral Model in 2010.

2. ALTERNATIVE OPTIONS

- 2.1 This is a noting report.

3. DETAILS OF REPORT

- 3.1 As background information, the Committee is considering two separate governance related agenda items detailing the outcome of the Spitalfields Community Governance Review and the Strengthening Local Democracy Review. This report therefore informs Members of the history and statutory position relating to the Council's current governance arrangements.
- 3.2 Following implementation of the Local Government Act 2000, the Council adopted the Leader and Cabinet model of executive arrangements. In October 2009, the Council received a petition requesting a change to the Mayoral model of executive arrangements. The Council held a referendum on the proposed change to the Mayoral model of executive arrangements which took place 6 May 2010. The referendum voted for adoption of the Mayoral model which was implemented.
- 3.3 The adoption of the current model was the result of a referendum, a 10 year moratorium against any further changes in the governance structure applies. This runs from the date of the May 2010 referendum and expires on 5 May 2020. The Council has received enquiries about the statutory process of presenting a petition and holding a referendum. If a valid petition is later received, the Council shall hold a referendum.¹ There is a possibility that a resulting referendum would be held 7th May 2020, which is the same day as the London Mayoral and GLA Elections.² Any referendum must be on the model set out in the petition.
- 3.4 There are three types of governance model a petition could set out. These are as follows:
- (1) A directly elected executive Mayor with a cabinet
 - (2) An executive Leader with a Cabinet
 - (3) A Committee System
- 3.5 The Leader & Cabinet and Elected Mayor forms of governance both follow the Executive Model whereby most Council decision making is overseen by the Mayor/Leader and/or the Cabinet, usually of one political group, with specific issues such as licensing and planning reserved for proportional non-executive Committees. Overview and Scrutiny provide a check and balance function to the Executive.
- 3.6 Under the Committee system Council is responsible for all Member-level decision making and will usually delegate that function to a number of Committees themed for particular issues, for example, education, environment, budget/resources or community safety. Places on these Committees are allocated on a proportional basis. Scrutiny will still have a role under this model.

¹ In accordance with Regulation 6 of Local Authorities (Referendums) (Petitions) (England) Regulations 2011

² This would be the case if a petition was to be received between 6th May 2019 and 7th January 2020 in accordance with Regulation 16 of Local Authorities (Referendums) (Petitions) (England) Regulations 2011.

- 3.7 The Council is required to have an officer designated as the Head of Paid Service. The Council has designated this post to the Chief Executive under the Local Government and Housing Act 1989. The Chief Executive has overall responsibility for the management and coordination of the employees appointed by the Council. He/she is required to report to the Council as appropriate with regard to the way in which the overall discharge by the Council of its different functions is coordinated.
- 3.8 The Chief Executive at Tower Hamlets is also designated as the Returning Officer for the Council.
- 3.9 Any changes to the model of governance arrangement for this authority will require the Chief Executive to apply consideration to any of the arrangements that have been proposed set out in paragraph 3.4. He/she is also responsible for organising the referendum on whether to change the Council's executive arrangements to those set out in any petition it may receive. The referendum must be on the arrangements proposed and cannot be on any other model.
- 3.10 There is no statutory requirement for the Council to take any action in relation to its current governance arrangements in the absence of a petition. The Council can continue with its arrangements until it determines otherwise. The Council's Constitution provides that this would require reasonable steps to consult with local electors and other interested persons in the area. Any proposals to make changes would still be subject to a referendum.
- 3.11 Members should note that any change of the council's governance arrangements would result in changes in council decision making structures. The Council would need to undertake a review of governance processes and procedures leading to a re-write of the constitution to take account of any new arrangements. This work would not just involve the Council but may require engagement with external partner organisations, especially where joint decision making or joint boards/panels are in operation. This could have an impact on resources. For the Council, this would include considering any changes to the role of Member decision making at Council, Cabinet, Cabinet sub-committees, individual member decision making, overview and scrutiny amongst others as well as officer decision making and other procedures.
- 3.12 The Council would also need to consider the cost and resources necessary should a requirement be made to hold a referendum to change the council governance arrangements.

4. EQUALITIES IMPLICATIONS

- 4.1 There are no immediate equalities implications arising out of this report.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 If the electorate opted to change the executive arrangements, there will be various implications for the Council to consider, including constitutional and decision making process and procedures as well as resource implications.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 Any new change to the Council governance arrangements of adopting a new model as set out in para 3.4 will have a financial implication for the Council. The council would need to consider the costs of holding a referendum, costs associated with the changes required to the Council business as well as officer costs associated with the arrangements.
- 6.2 The estimated cost of a referendum is likely to be in the region of £420,000 based on the 2016 referendum. If this referendum was to be held at the same time as the London Mayoral and GLA elections on 7th May 2020, it should be noted this may not necessarily guarantee savings due the likely need for additional staff, security in stations ,and at the count, longer count times and potentially a larger count venue.

There would also be resource implications as established in 3.11 which would impact on the overall cost of changing the council's governance arrangements.

7. LEGAL COMMENTS

- 7.1 Section 9B of the Local Government Act 2000 provides the permitted forms of governance for local authorities in England. The prescribed forms of governance are executive arrangements (either a mayor and cabinet or a leader and cabinet), a committee system or other arrangements prescribed by the Secretary of State.
- 7.2 There is a moratorium period of 10 years beginning from the date of the referendum on 5 May 2010 for the Council's current executive arrangements to remain in place. Section 9MF of the Local Government Act 2000 prohibits a second referendum taking place during this period.
- 7.3 A petition may be presented to the Council requesting a change in governance arrangements at any time after 6 May 2019. Where a valid petition is received, the Council must hold a referendum in accordance with the Local Authorities (Referendums) (Petitions) (England) Regulations 2011.
- 7.4 In addition the Council may resolve to change its governance arrangements. Article 15.02 of the Council's constitution provides the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change to its executive arrangements. Also as the Council's current executive arrangements were agreed as a result of a referendum, Section 9M of the Local Government Act

2000 provides that any change in those arrangements proposed by the Council must also be subject to approval at a referendum.

Linked Reports, Appendices and Background Documents

Linked Report

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Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE

Officer contact details for documents:

- N/A